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6 Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DIVISION OF MEDICAL QUALITY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation) NO. D-5127
12 Against:)

13 RAUL FRAIDE, M.D.)
951 South Beach Blvd.)
14 La Habra, CA 90631)

STIPULATION FOR
SURRENDER OF
LICENSE

15 Physician and Surgeon's)
Certificate No. A11369)
16)

Respondent.)
17)

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the
20 complainant, DIXON ARNETT, Executive Director of the California
21 State Medical Board of California (hereinafter "Board") and
22 RAUL FRAIDE, M.D. (hereinafter "respondent"), parties to the
23 above-entitled matter that:

24 1. DIXON ARNETT, complainant, is the Executive
25 Director of the Medical Board of California, and is represented
26 by Daniel E. Lungren, Attorney General of the State of
27 California, by Richard D. Garske, Deputy Attorney General.

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1 2. Respondent is represented in this administrative
2 disciplinary proceeding before the Board by Stephen J. Martino,
3 Esq. Respondent has counseled with Attorney Martino concerning
4 the effect of this stipulation, which respondent has carefully
5 read and fully understands.

6 3. On or about May 7, 1946, Physician and Surgeon's
7 Certificate No. A11369 was issued by the Board to Raul Fraide,
8 M.D.

9 4. On or about March 17, 1993, complainant, in his
10 official capacity as Executive Director of the Board, filed
11 Accusation No. D-5127 against respondent. A true and accurate
12 copy of Accusation No. D-5127 is attached hereto as Attachment A
13 and incorporated by reference as if fully set forth herein. On
14 or about December 9, 1993, respondent was served with Accusation
15 No. D-5127, together with all other statutorily required
16 documents, at his home address of 1261 Smoke Tree Drive, La
17 Habra, California 90631.

18 5. Respondent is fully aware of the charges and
19 allegations contained in Accusation No. D-5127. Respondent
20 further understands that the charges and allegations contained in
21 Accusation No. D-5127 would, if proven, constitute cause for
22 imposing discipline upon his physician and surgeon's license.

23 6. Respondent is fully aware of his right to a hearing
24 on the charges and allegations contained in Accusation No.
25 D-5127, his right to reconsideration, appeal, and any and all
26 other rights which may be accorded him pursuant to the California
27 Administrative Procedure Act and California Code of Civil

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1 Procedure, having been fully advised by his attorney, Stephen J.
2 Martino, Esq.

3 7. Respondent, having benefit of counsel, hereby
4 freely, voluntarily, and intelligently waives his rights to a
5 hearing, reconsideration, appeal, and any and all other rights
6 which may be accorded him pursuant to the California
7 Administrative Procedure Act and California Code of Civil
8 Procedure concerning Accusation No. D-5127.

9 8. Respondent understands that by signing this
10 Stipulation, rather than contesting the charges and allegations
11 contained in Accusation No. D-5127, he is enabling the Board to
12 issue its order accepting the surrender of respondent's physician
13 and surgeon's license without further notice, opportunity to be
14 heard, or formal proceeding.

15 9. Upon acceptance of this stipulation by the Board,
16 respondent agrees to surrender, and cause to be delivered to the
17 Board, his wallet certification, his Physician and Surgeon's
18 License Certificate No. A11369.

19 10. Respondent fully understands that when the Board
20 accepts respondent's surrender of his physician and Surgeon's
21 License No. A11369 respondent will no longer be permitted to
22 practice as a physician and surgeon within the State of
23 California.

24 11. Respondent fully understands, and expressly agrees
25 that should he ever reapply for a physician and surgeon's license
26 in the State of California, all the charges and allegations
27 contained in Accusation No. D-5127 shall be deemed admitted by

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1 respondent as true and correct for purposes of any statement of
2 issues or other proceedings seeking to deny respondent's
3 application or request for readmission to the practice of
4 medicine.

5 12. This agreement is made for the purpose of settling
6 Accusation No. D-5127. It is only for the purpose of this
7 proceeding and any subsequent proceeding between the Board and
8 Raul Fraide, M.D., or any action taken by or before any
9 governmental body responsible for licensing physicians and
10 surgeons.

11 13. Respondent hereby voluntarily surrenders his
12 Physician's and Surgeon's Certificate No. A11369 to the Board for
13 its formal acceptance, thereby relinquishing his right to
14 practice medicine in the State of California.

15 14. Respondent specifically waives the renewal
16 provisions of the Business and Professions Code and agrees that
17 he will not apply to the Board to have his certificate renewed,
18 restored, reissued or reinstated. Respondent further agrees that
19 he will not apply for a new certificate for at least three (3)
20 years after the effective date of this surrender, and that any
21 such application shall be deemed a petition for reinstatement of
22 the certificate and treated according to the provisions of
23 Business and Professions Code section 2307, or any similar
24 section that is in effect at the time of such an application.

25 15. This stipulation for surrender of respondent's
26 physician and surgeon's license is intended by the parties to be

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1 an integrated writing, memorializing the complete agreements of
2 the parties herein.

3 16. In the event this stipulation is rejected for any
4 reason by the Medical Board of California, it will be of no force
5 or effect for either party.

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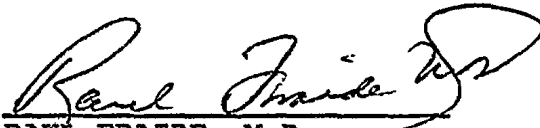
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ACKNOWLEDGEMENT

I, RAUL FRAIDE, M.D., have read the Stipulation in Case No. D-5127, and enter the Stipulation for surrender of my physician and surgeon's license freely, voluntarily, intelligently, on advice of counsel, and with full knowledge of its force and effect, and do hereby surrender my Physician and Surgeon's Certificate No. A11369 to the Medical Board of California for its formal acceptance. By so surrendering my license, I recognize that upon formal acceptance of the surrender by the Board, I will lose all rights and privileges to practice as a physician and surgeon in the State of California.


I have read the above document and I fully understand, accept, and consent to all of the provisions of the above stipulation and order.

DATED: Feb 26, 1994

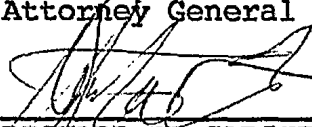

RAUL FRAIDE, M.D.
Respondent

I CONCUR IN THIS STIPULATION.

DATED: May 13, 1994


STEPHEN J. MARTINO, ESQ.
Attorney at Law
Attorney for Respondent

DATED: February 14, 1994

DANIEL E. LUNGREN
Attorney General

RICHARD D. GARSKE
Deputy Attorney General

Attorneys for Complainant

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ORDER

The surrender of Physician and Surgeon's Certificate
No. A11369 by respondent Raul Fraide, M.D., is accepted by the
Medical Board of California.

THIS DECISION AND SAID SURRENDER SHALL BECOME EFFECTIVE
on the 6th day of September, 1994.

MEDICAL BOARD OF CALIFORNIA
Division of Medical Quality
Medical Board of California
State of California

BY:



Ira Lubell, M.D., Panel A
Division of Medical Quality

ORIGINAL

DANIEL E. LUNGREN, Attorney General
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Attorneys for Complainant

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In the Matter of the Accusation)	NO. D-5127
Against:)	
RAUL FRAIDE, M.D.)	<u>ACCUSATION</u>
951 South Beach Blvd.)	
La Habra, CA 90631)	
Physician and Surgeon's)	
Certificate No. No. A11369)	
Respondent.)	

COMES NOW Complainant Dixon Arnett , who as cause
for disciplinary action, alleges:

1. Complainant is the Executive Director of the
California State Medical Board of California ("Board") and makes
and files this accusation solely in his official capacity.

LICENSE STATUS

2. On or about May 7, 1946, Physician and Surgeon's
Certificate No. A11369 was issued by the Board to Raul Fraide,
M.D. (hereinafter "respondent"), and at all times relevant

1 herein, said Physician and Surgeon's Certificate was, and
2 currently is, in full force and effect. Respondent is not
3 authorized to supervise physician assistants.

4 STATUTES

5 3. This accusation is made in reference to the
6 following statutes of the California Business and Professions
7 Code ("Code"):

8 a. Code section 2220 provides, in pertinent part, that
9 the Board may take action against all persons guilty of violating
10 the Medical Practice Act.^{1/}

11 b. Code section 2227 provides that the Board may
12 revoke, suspend for a period not to exceed one year, or place on
13 probation, the license of any licensee who has been found guilty
14 under the Medical Practice Act.

15 c Code section 2234 provides that unprofessional
16 conduct includes, but is not limited to, the following:

17 ". . . .

18 "(b) Gross negligence.

19 ". . . .

20 "(d) Incompetence.

21 ". . . .

22 ". . . ."

23 SUMMARY OF ALLEGATIONS:

24 4. This accusation is brought, and respondent is
25 subject to, disciplinary action pursuant to section 2234 of the
26 Medical Practice Act [unprofessional conduct] in itself, and in

27

1. The Medical Practice Act comprises chapter 5 of division 2 [Healing Arts] of the Business and Professions Code.

1 conjunction with sections 2234(b) [gross negligence], and 2234(d)
2 [incompetence].

3 ALLEGATIONS

4 FACTUAL PREDICATE

5 5. The specific medical treatment rendered by
6 respondent Fraide is limited to surgery performed on patient
7 ASHIYA K. in three separate operations, and on patient MARY JEAN
8 N. in one operation as follows:

9 PATIENT ASHIYA K.

10 6. ASHIYA K. was 19 years old when she had the initial
11 operation [cholecystectomy]^{2/} performed by respondent. The
12 subsequent operations were performed as a result of post-
13 operative complications following each operation. ASHIYA K.
14 developed biliary^{3/} cutaneous^{4/} fistula,^{5/} jaundice,^{6/} common duct^{7/}
15 stricture,^{8/} and cholangitis^{9/} and had at least four surgical
16 procedures at UCLA Medical Center following the first three
17 surgical procedures performed by respondent. The first three
18 surgical procedures by respondent will be addressed separately:

19
20 2. Cholecystectomy: "Surgical removal of the gallbladder."

21 [All medical term definitions in footnotes herein are taken from Stedman's Medical
Dictionary (5th Unabridged Lawyers' ed., 1982) unless stated otherwise.]

22 3. Biliary: "Relating to bile."

23 4. Cutaneous: "Relating to the skin."

24 5. Fistula: "An abnormal passage from a hollow organ to the surface, or from one organ to another."

25 6. Jaundice: "A yellowish staining of the . . . tissues and the excretions with bile pigments, which are increased in the serum."

26 7. Duct: ". . . [A] tubular structure giving exit to the secretion of a gland, or conducting any fluid."

27 8. Stricture: "A circumscribed narrowing or stenosis of a hollow structure . . ."

9. Cholangitis: ". . . Inflammation of a bile duct."

OPERATION NO. 1

7. On July 7, 1989, an cholecystectomy was performed on patient ASHIYA K. by respondent because of cholelithiasis^{10/} with colic. Respondent injured the common duct or the right hepatic^{11/} duct. This injury was the source of biliary drainage.

8. Post-operatively, she drained bile from the drain site which was treated by respondent as a bile fistula from the gall bladder bed.

9. Respondent falsely assumed the drainage was from a small biliary duct in the gall bladder bed and expected it to close spontaneously.

10. Patient ASHIYA K. returned to respondent's office approximately 17 days after the first operation with bile drainage around a drainage tube following the cholecystectomy.

11. Laboratory studies showed findings suggesting proximal duct obstruction or decreased liver function. The laboratory studies showed no evidence of abnormal liver function studies at that time.

12. Respondent's failure to recognize the fact in the first operation that he had cut the common duct constitutes the commission of act(s) involving gross negligence in violation of code section 2234(b).

13. Respondent's failure to order appropriate studies, which would have definitely demonstrated patient ASHIYA K.'s serious, postoperative complication when she continued to drain

10. Cholelithiasis: "... presence of concretions in the gallbladder or bile ducts."

11. Hepatic: "Relating to the liver."

bile, constitutes the commission of act(s) involving gross negligence in violation of code section 2234(b).

OPERATION NO. 2

14. On August 2, 1989, respondent performed a second operation on Ashiya K. to close the "bile fistula," and in doing so, sutured the common bile duct.

15. On August 2, 1989, in the second operation on patient ASHIYA K., respondent performed an exploratory laparotomy^{12/} and described excision^{13/} of a bile sinus tract and reexploration of the abdomen with suture^{14/} ligation^{15/} of the "bile duct in gall bladder bed." Respondent performed an excision of biliary cutaneous fistula with closure of fistula by placing sutures in the gall bladder fossa.^{16/}

16. On or about August 7, 1989, patient ASHIYA K. was obviously jaundiced. Retrograde^{17/} cholangiopancreatography^{18/} was carried out. It disclosed complete occlusion^{19/} of the junction of the mid and proximal^{20/} common bile duct.

///

12. Laparotomy: "1. Incision into the loin. 2. Cellotomy."

13. Excision: "... the act of cutting out; the operative removal of a portion of a structure or organ."

14. Suture: "... To unite two surfaces by sewing. ... The seam so formed, a surgical s."

15. Ligation: "The application of a ligature."

Ligature: "A thread, wire, fillet, or the like, tied tightly around a blood vessel, the pedicle of a tumor, or other structure to constrict it. ..."

16. Fossa: "A depression usually more or less longitudinal in shape below the level of the surface of a part."

17. Retrograde: "1. Moving backward. 2. Degenerating; reversing the normal order of growth and development."

18. Cholangiopancreatography: "Roentgenographic examination of the bile ducts and pancreas."

19. Occlusion: "The act of closing or the state of being closed."

20. Proximal: "Nearest ... the point of origin"

1 17. Respondent's operation a second time, and failure
2 to still recognize the problem, constituted the commission of
3 act(s) involving gross negligence in violation of code section
4 2234(b).

5 18. Overseeing the "sinus tract and cauterizing the
6 remainder" constituted the commission of act(s) involving gross
7 negligence in violation of code section 2234(b).

8 OPERATION NO. 3

9 19. On or about August 10, 1989, respondent performed
10 an exploratory laparotomy with common duct exploration with
11 operative cholangiogram^{21/} and hepatograms^{22/} and jejunostomy.^{23/}

12 20. In the third operation, respondent further injured
13 the common bile duct and attempted an intra-hepatic biliary and
14 anastomosis^{24/} after ligating the left hepatic duct.

15 21. Respondent's actions in further compounding the
16 injury he had caused in the first two operations by performing
17 the third operation and shredding the remaining common duct and
18 attempting the intra-hepatic jejunostomy constitute the
19 commission of act(s) involving gross negligence in violation of
20 code section 2234(b).

21 22 Respondent's failure to transfer patient ASHIYA K.
22 to the care of more experienced biliary and liver surgeons
23

24 21. Cholangiogram: "The roentgenographic record of the bile ducts obtained by cholangiography."

25 Cholangiography: "Roentgenographic examination of the bile ducts."

26 22. Hepatic: "Relating to the liver."

27 23. Jejunostomy: "Operative establishment of an opening from the abdominal wall into the jejunum, usually with creation of a stoma on the abdominal wall."

 24. Anastomosis ". . . 2. An operative union of two hollow or tubular structures. . . ."

1 following each of the three operations and instead persisting to
2 operate and reoperate on a complicated biliary complication
3 constituted the commission of act(s) involving gross negligence
4 in violation of code section 2234(b).

5 23. Following the failure of the first three
6 operations on patient ASHIYA K. by respondent, she was eventually
7 sent to UCLA Medical Center for reconstructive biliary surgeries.
8 On or about and between April 3, 1990 and September 1, 1990,
9 patient ASHIYA K. underwent care and treatment by the UCLA
10 Medical Center staff related to a series of reconstructive
11 biliary surgeries.

12 PATIENT MARY JEAN N.

13 24. On or about May 15, 1989, respondent performed a
14 cholecystectomy on patient MARY JEAN N.

15 25. Patient MARY JEAN N. appeared in respondent's
16 clinic during the subsequent months with occasional pains in the
17 lower abdomen. Investigations, including x-rays, were not taken.

18 26. On or about May 3, 1990, patient MARY JEAN N. was
19 admitted to the same medical center by another surgeon with an
20 acute surgical abdomen. She was seen in the emergency room with
21 abdominal pain associated with emesis and fever of one-day
22 duration.

23 27. Another surgeon explored the patient and found a
24 surgical clamp that was closed about a loop of medilium. The
25 clamp was removed and the bowel was resected and an anastomosis
26 was carried out. There was evidence of necrosis of the small
27 bowel.

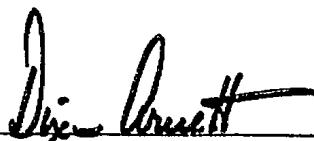
1 28. Respondent's failure to remove the clamp following
2 the cholecystectomy performed on patient MARY JEAN N. by
3 respondent on or about May 15, 1989, constitutes the commission
4 of acts involving negligence.

5 WHEREFORE, complainant requests that the Board hold a
6 hearing on the matters alleged herein, and that following said
7 hearing, the Board issue a decision:

8 1. Revoking or suspending Physician and Surgeon's
9 Certificate No. A11369, heretofore issued to respondent Raul
10 Fraide, M.D.;

11 2. Taking such other and further action as the Board
12 deems appropriate to protect the public health, safety and
13 welfare.

14 DATED: March 17, 1993

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18 DIXON ARNETT
19 Executive Director
20 Medical Board of California
21 Department of Consumer Affairs
22 State of California

23 Complainant

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25 ALABAMA TO STATE
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